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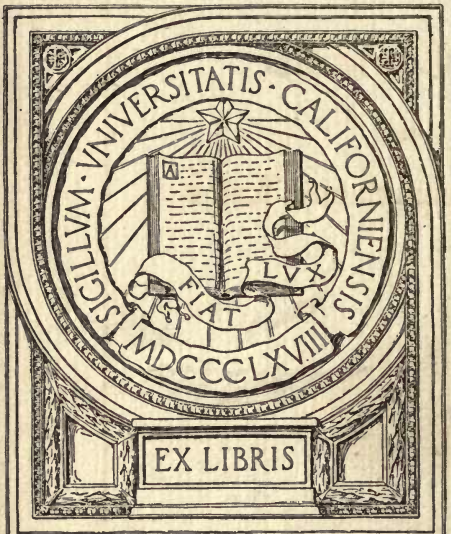
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State of California

Weights and Measures

Net Container

and

Public Weighmaster Laws

Issued by
State Department of Weights and Measures
Sacramento, Cal.

California State Printing Office
Sacramento
1916

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Weights and Measures

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UNIV. OF CALIFORNIA

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WEIGHTS AND MEASURES

CONSTITUTIONAL PROVISION.

ARTICLE XI.

SEC. 14. The legislature may by general and uniform laws provide for the inspection, measurement and graduation of merchandise, manufactured articles and commodities, and may provide for the appointment of such officers as may be necessary for such inspection, measurement and graduation. [*Amendment adopted October 10, 1911.*]

GENERAL LAWS

An act to establish a standard of weights and measures in the State of California; to regulate weights and measures and weighing and measuring instruments and devices and providing for the inspection and sealing thereof; to prevent the use and sale of false weights and measures and weighing and measuring instruments and devices; providing for the inspection, measurement and weighing of goods, commodities, wares, packages and amounts of commodities kept for sale or in process of delivery; to prevent the sale of goods, wares and merchandise by false weights and measures; to provide penalties for the violation of the provisions of this act; for the admission in evidence of copies of the state's standard of weights and measures; providing for the appointment of officers to enforce and carry into effect the provisions of this act including a State Superintendent of Weights and Measures and his deputy, sealers of weights and measures and their deputies; defining the powers and duties of such officers; and making an appropriation to carry this act into effect.

[Approved June 16, 1913; *Statutes* 1913, chap. 597, p. 1086. Amendments approved June 8, 1915; *Statutes* 1915, chap. 668, p. 1312.]

Office of superintendent of weights and measures created.

SECTION 1. There is hereby created the office of State Superintendent of Weights and Measures. Within thirty days after this act becomes effective, the governor shall appoint a suitable person as State Superintendent of Weights and Measures. Wherever in this act the term superintendent or state superintendent is used, it shall be taken as referring to and meaning State Superintendent of Weights and Measures.

Term. Salary. Bond.

SEC. 2. The term of office of State Superintendent of Weights and Measures shall be four years, or until his successor shall have been appointed and qualified, but he shall always be subject to removal at the pleasure of the governor. The salary of State Superintendent of Weights and Measures shall be thirty-six hundred dollars per annum, payable in the same manner as other state officers are paid. Before entering upon his duties he shall execute a bond to the state in the sum of five thousand dollars conditioned upon the faithful performance of his duties. [*1915 Amendment.*]

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Deputies. Salaries.

SEC. 3. The state superintendent may appoint a deputy, who shall have the same powers as the state superintendent. Such deputy shall receive a salary of eighteen hundred dollars per annum, payable in the same manner as other state officers are paid. He shall be at all times subject to removal at the pleasure of the state superintendent. The state superintendent may also appoint additional deputies from time to time to serve as sealers of weights and measures at the request of counties, as provided in section sixteen of this act. Such deputies when actually employed shall be paid at the rate of one hundred and fifty dollars per month by the county engaging their services and not by the state. They also shall receive their actual traveling expenses from such county. [*1915 Amendment.*]

Traveling and office expenses.

SEC. 4. The state superintendent and his deputy shall each be allowed their actual traveling expenses, to be approved by the state board of control in the same manner as other claims against the state. The state superintendent shall also be allowed necessary office expenses to be approved by the state board of control in the same manner as other claims against the state.

Standards of weights and measures.

SEC. 5. The standards of weights and measures received from the United States under a resolution of congress approved June 14, 1836, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or renewal thereof, and such as shall be procured by the state in conformity therewith and certified by the national bureau of standards, shall be the state standards by which all state, county and municipal standards of weights and measures shall be tried, proved and sealed.

Custody of standards. Tolerances.

SEC. 6. The standards referred to in the preceding section shall be kept by the state superintendent in a safe and suitable place in his office from which they shall not be removed except for repairs or certification. He shall maintain such standards in good order and shall submit them at least once in ten years to the national bureau of standards for certification. Upon demand the secretary of state shall deliver to the state superintendent all standards now under the control and in the possession of the secretary of state in his capacity of ex officio state sealer of weights and measures. The state superintendent

shall thereupon submit such standards received from the secretary of state to the national bureau of standards for certification, and he shall replace such standards as are incorrect and purchase such additional standards as shall be necessary to complete and make up a complete standard of weights and measures as required by this act. He shall also purchase such apparatus as shall be found necessary to a proper prosecution of the work of the office. The State Superintendent of Weights and Measures may establish tolerances for use in the State of California similar to the tolerances established by the national bureau of standards, and he may establish a standard net weight, or net measure, or net count, of any commodity, produce, or article. [*1915 Amendment.*]

Copies furnished cities, etc. Testing.

SEC. 8. The state superintendent shall, at the request of the legislative body of any county, city, town, or city and county, furnish to said county, city, town or city and county, copies of the standard weights and measures of the state; such copies shall be furnished at the expense of the county, city, town or city and county requesting the same. He shall upon request of the legislative body of any county, city, town, city and county or upon the request of a sealer of weights and measures of any such county, city, town or city and county, appointed pursuant to the provisions of this act, test and accurately approve copies of the state's standards of weights and measures procured by any such county, city, town or city and county to be used by a sealer of weights and measures in the performance and discharge of his duties. Copies furnished under the provisions of this section or copies tested and approved by the state superintendent under the provisions of this section shall be true and correct; shall be sealed and certified to by the state superintendent and stamped with the letter "C." Such copies need not be of the same material or construction as the standards of the state and such copies may be furnished in any suitable materials or construction that the county, city, town, or city and county requiring the same may specify, subject to the approval of the state superintendent.

Inspection of standards used by cities, etc. Expense of testing. Complete set of copies.

SEC. 9. The state superintendent shall inspect and correct the standards used by each county, city, town and incorporated city and county of the state, and at least once in two years compare the same with those in his possession and keep a record of the same, and where not

otherwise provided by law he shall have general supervision of the weights and measures and weighing and measuring devices offered for sale, sold or in use in the state. Sealers of weights and measures appointed under the provisions of this act shall, upon the request of the state superintendent, deliver to the state superintendent at his office the copies of the state's standards of weights and measures in their possession, and used in the discharge and performance of their duties, for verification and certification by the state superintendent. The actual expense of such comparison and verification shall be borne by the county, city, town or city and county whose weights and measures are compared and verified. In addition to the standards heretofore referred to and required to be kept by the state, the state shall also have a complete set of copies of said original standards of weights and measures adopted by this act, which shall be used for adjusting county and municipal standards by the state superintendent and his deputy in the performance of their duties, and the original standards shall not be used except for the adjustment of this set of copies and for certification purposes. Additional complete sets of copies of such original standard of weights and measures may be purchased by the superintendent when the same are necessary for use by any deputy state superintendent employed by counties under section sixteen of this act. The state, however, shall be reimbursed for the purchase of such copies by the county in which the same are used, in the manner hereinafter provided.

Testing of weights and measures used by state institutions.

SEC. 10. The state superintendent or his deputy shall, at least once annually and as often as requested by the state board of control or the executive officers of the institutions herein referred to, test the scales, weights and measures used in checking the receipt and disbursement of supplies in every institution conducted by the state, and he shall report in writing his findings to the executive officer of the institution concerned and to the state board of control.

Inspecting work of local sealers.

SEC. 11. The state superintendent or his deputy shall at least once in two years visit the various cities and counties of the state and inspect the work of the local sealers of weights and measures, and in the performance of said duties he or his deputy may inspect the weights, measures, balances or any other weighing or measuring devices of any person, firm or corporation. The state

superintendent and his deputy shall have all the powers of sealers of weights and measures provided for in this act.

Sealers who neglect duties. Hearing, etc. Not to sell weighing instruments.

SEC. 12. The state superintendent if he finds that any sealer of weights and measures appointed under the provisions of this act, or any sealer or deputy sealer appointed by any city or county in this state, prior to this act, has refused or neglected to perform the duties of his office or refused to accept the recommendations and instructions of the state superintendent or is guilty of any malfeasance in office or who is incompetent, shall present to the body, officer or board having power to remove such sealer or deputy sealer of weights and measures a written charge and accusation based upon and clearly stating the alleged offense or offenses of such sealer or deputy sealer and request such body, officer or board to hear and determine such charge and accusation. Upon receipt of such charge and accusation, it shall be the duty of the body, officer or board with whom the same have been filed to make an order setting the same for hearing at a time which shall be not less than ten nor more than twenty days from the date upon which such charge and accusation shall have been filed, and shall in such order fix the time and place for such hearing. A copy of such charge and accusation, together with a copy of such order, shall be served upon the accused at least seven days prior to the time fixed for such hearing; *provided*, that in the event he shall absent himself from his usual place of business, or office, such service may be made by depositing such copies in a conspicuous place therein or by leaving the same at the last known place of residence of the accused, within the time above limited. At such hearing the accused shall have the right to be represented by counsel, if he so desires, and to produce witnesses and documentary evidence in his defense. If, upon such hearing, he be found guilty of malfeasance in office, or adjudged to be incompetent to perform the duties of the office, the body, officer or board before whom such hearing is had must forthwith remove him from office. If he be found guilty of any of the other offenses herein enumerated he may be punished by removal or by suspension without pay for a period not exceeding thirty days, as such body, board or officer may determine. If he has reason to believe that any such sealer or deputy sealer of weights and measures has committed any of the offenses specified in section seven hundred and seventy-two of the Penal Code, the state superintendent may, in his discretion, present an accusation to

the superior court of the county in which the accused is employed, which shall thereupon be heard and determined by such court in the manner provided by law. The remedies provided in this section are cumulative merely, and shall not in any wise detract from the right of the appointing power to remove at will any such sealer or deputy sealer of weights and measures. It shall be unlawful for the state superintendent, his deputies, or any sealer of weights and measures to keep for sale, or offer or expose for sale, or to sell to any person, firm, or corporation, or dealer in goods, wares and merchandise, doing or intending to do business in the State of California any weighing or measuring instrument, or to be interested directly or indirectly in the sale of any weighing or measuring instrument. [*1915 Amendment.*]

Conditions throughout state investigated. Annual report.

SEC. 13. It shall be the duty of the state superintendent to investigate conditions in the various counties, cities and towns of the state in respect to weights and measures, and to the sale of goods, wares and merchandise, commodities and foodstuffs in containers. The state superintendent shall annually report to the governor, and shall prior to each regular session report to the legislature the work of his office, and shall make such recommendations as he shall deem proper and necessary.

Instructions to sealers.

SEC. 14. The state superintendent shall issue instructions and make recommendations to the county and municipal sealers of weights and measures, appointed under the provisions of this act, and such instruction and recommendations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties.

Record of acts done.

SEC. 15. The state superintendent shall keep in his office a complete record of all acts done by him and a record of all prosecutions for violation of the provisions of this act, and the reports of the various sealers of weights and measures appointed under the provisions of this act, which records and reports shall always be open to the public.

Office of sealer of weights and measures created. Compensation and term. Deputies. Failure to appoint.

SEC. 16. The office of sealer of weights and measures is hereby created. Whenever in this act the term "sealer" is used, the same shall be taken to mean and refer to sealer of weights and measures. Within one hundred and

twenty days after the approval of this act by the governor, it shall be the duty of the board of supervisors of each of the counties of the state except as hereinafter provided, to appoint a sealer of weights and measures for their respective counties; said sealer shall receive as compensation the sum of five dollars per day for each day actually employed in the service of the county, to be audited and paid as other claims against the county. He shall be allowed his traveling expenses actually and necessarily incurred in the performance of his duties. The term of office of such sealer of weights and measures shall be four years, but he shall be subject to removal at the will of such board. A sealer appointed under this act may, with the consent of the board of supervisors of the county appointing him, appoint a deputy or deputies when necessary or expedient to carry out the provisions of this act. The compensation of such deputies shall be the same as the county sealer and paid in the same manner. Such deputies shall always be subject to removal by the sealer of weights and measures. In case the legislative body of any county or city and county shall not appoint a sealer for such county or city and county within thirty days after written request for such appointment by the state superintendent, is received, said state superintendent shall assign as soon as practicable a deputy superintendent who shall perform all the duties of sealer in such county or city and county as provided in this act to be performed by county or city sealers and to provide copies of the original standards of weights and measures for use by said deputy in such county. The actual cost of such services shall be paid by the county in the same manner in which other claims against the county are paid. The amount to be paid shall be at the rate of one hundred and fifty dollars per month for the time such deputy superintendent is employed in such county in addition to the actual traveling expenses of such deputy made necessary by such appointment. The county shall also stand its proportionate share of the actual cost of the set of copies to be used in such county by such deputy, at the rate of one-twelfth of the cost thereof for every month such copies are employed therein during the first year of their use, and in that event such county may at any time pay the balance of the cost of such copies and become the owner thereof, or the county may pay rental to the state for the use of such copies at the rate of ten per cent per annum of the cost price thereof. [*1915 Amendment.*]

Appointment of sealers. Compensation and term. In counties of second class and cities of first class.

SEC. 17. The legislative body of any county, or city and county or of any city or town may appoint a sealer

of weights and measures, fix his compensation and provide for the appointment by the sealer of such number of deputies as the said legislative bodies may deem necessary and expedient. Such sealer and deputies shall each receive as compensation the sum of five dollars per day for each day actually employed in the service of such county or city and county or city or town. The term of office of sealer of weights and measures appointed under the provisions of this section shall be four years. He shall be subject to removal by the power appointing him. Deputies appointed under the provisions of this section shall be subject to removal by the sealer. In counties of the second class and cities of the first class the sealer shall receive as compensation the sum of twenty-four hundred dollars per year and shall be allowed four deputies, who shall receive as compensation the sum of eighteen hundred dollars per annum, each payable in the same manner as the salaries of other county officers are paid.

Jurisdiction of sealers.

SEC. 18. The jurisdiction of a sealer appointed or a deputy state sealer employed for a county shall extend over the entire territorial limits of the county appointing such sealer, except within the territorial limits of those cities and towns within which sealers have been appointed under the provisions of this act. The jurisdiction of the sealer of weights and measures appointed by the legislative body of any city or town under the provisions of this act shall extend over the entire territorial limits of such city or town.

Sealers appointed heretofore not affected.

SEC. 19. This act shall not affect the appointment of any sealer of weights and measures heretofore appointed for any city, town or city and county under any law, but such sealers shall perform the duties of the office under the provisions of this act, and shall possess the same powers and duties as sealers appointed under the provisions of this act.

Copies of standards for counties, etc.

SEC. 20. Except as herein otherwise provided the board of supervisors or legislative body of each county, city, town and city and county of the state shall, upon the appointment of a sealer under the provisions of this act, provide and procure for their respective county, city, town and city and county, copies of the state's standards of weights and measures at the expense of such county,

city, town or city and county; such copies shall be verified and certified to by the state superintendent of weights and measures as in section eight of this act provided.

Copies to be tested.

SEC. 21. Sealers appointed under the provisions of this act shall, at least every two years, cause to be proved and tested by the state superintendent copies of the state's standards in their possession. If, upon such inspection, or any inspection by the state superintendent, the copies of the weights and measures tested shall be found to be incorrect, the same shall be adjusted, if the same are susceptible of being adjusted, but if not, new copies shall be procured and certified to in the same manner as original copies.

Copies deemed correct.

SEC. 22. In any prosecution for a violation of any of the provisions of this act any copy of the standards of weights and measures of the state furnished, procured and certified to under the provisions of this act, shall be admitted in evidence upon the trial, and such copy shall be deemed prima facie true and correct.

Duties of sealers.

SEC. 23. It shall be the duty of any sealer of weights and measures to carefully preserve all copies of the standards of weights and measures in his possession, and to keep the same in a safe and suitable place when not actually in use; and it shall be his duty annually and at such other times as the state superintendent may require, to file with such superintendent a written report of the work done by him of the weights, measures, weighing and measuring instruments inspected or tested by him and of the result of such inspection, of all prosecutions instituted by him for violations of the provisions of this act and of all other matters and things pertaining to his duties or which may be required by the state superintendent.

Dealers in weighing and measuring instruments to have same tested.

SEC. 24. Every person using or keeping for use or having or offering for sale weights, scales, beams, measures of every kind, instruments or mechanical devices for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures within a county, city, town, or city and county in which there has been appointed a sealer under the provisions of this act, shall within three months after the appointment of such sealer cause all such weights, scales,

beams, measures of every kind, instruments or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures to be sealed and marked by the sealer of weights and measures of the county, city, town or city and county in which the same are used, kept for use or kept or offered for sale.

Instruments must be tested before sale.

SEC. 25. No weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, nor tools, appliances or accessories connected with any or all of such instruments or measures shall be used, kept for use, sold, offered for sale or kept for sale in any county, city, town or city and county, in which there is a sealer appointed under the provisions of this act and in which for three months there has been continuously in office in such county, city, town or city and county a sealer, unless such weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures shall have been sealed and tested as in this act provided.

Instruments which may be sold. Subject to inspection.

SEC. 26. When any weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measurements have been tested and found correct by any sealer appointed under the provisions of this act, the same may be used, kept for use, offered for sale, sold, or kept for sale within any county, city, town or city and county of this state for one year without any further test. Any weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures, which have been tested and sealed and certified to as correct by the national bureau of standards, may be kept for sale, sold or offered for sale without being first tested and sealed by a sealer as in this act provided. But all such weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures shall always be subject to inspection and testing as herein provided, notwithstanding that the same have been tested and sealed either by a sealer appointed under the provisions of this act or by the national bureau of standards.

Testing of devices which must be assembled before use.

SEC. 27. Any scale, beam or mechanical device for weighing or measuring, which, after being sold and before being used for weighing or measuring it is necessary to assemble or set up, may be sold, kept for sale, or offered for sale without first being tested and sealed as in this act provided; but such scale, beam or mechanical device for weighing or measuring, before being used for weighing or measuring must be tested and sealed as in this act provided.

Testing upon request of resident. Testing upon request of firm, etc., using. Not relieved from violation.

SEC. 28. Upon a written request of any resident of a county, city, town or city and county, in which there has been appointed a sealer under the provisions of this act there appearing reasonable ground therefor, the sealer for such county, city, town or city and county shall test or cause to be tested, as soon thereafter as is practicable, the weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measurements used in buying or selling by the person, firm or corporation, designated in such request. Upon the written request of any person, firm or corporation, using, having for use, selling, keeping or offering for sale any weight, scale, beam, measure of any kind or instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures, in any county, city, town, or city and county in which there has been appointed a sealer under the provisions of this act, the sealer for such county, city, town or city and county shall test or cause to be tested, as soon thereafter as is practicable, the weights, scales, beams, measures of any kind, instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures belonging to or used by such person, firm or corporation; but such written request shall not relieve the person, firm or corporation making it from any violation of the provisions of this act or of the responsibility provided in this act for using, keeping for use, selling or offering to sell, or keeping for sale, any false weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures.

Duties of sealers. Weigh packages.

SEC. 29. The sealer shall, within his county, city, town or city and county, inspect, try, test all weights,

scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, kept for the purpose of sale, sold, or used by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area, weight or measurement of quantities, things, produce, articles for distribution or consumption, purchased or offered or submitted by such person or persons for sale, hire or award and ascertain if the same are correct; and he shall have the power to and shall, from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale or sold; or in the process of delivery, in order to determine whether the same contain the quantity or amount represented and whether they are being offered for sale or sold in accordance with law and may seize for use as evidence any such amounts of commodities or package or packages which shall be found to contain a less amount than that represented. He shall, at least once in each year, or as much oftener as he deems necessary, see that the weights, measures and all weighing and measuring apparatus, used in his county, city, town, or city and county, are correct. He may, for the purpose above mentioned, and in the general performance of his duty, without formal warrant, enter or go into or upon, any stand, place, building or premises or stop any vendor, peddler, junk dealer, driver of a coal wagon, ice wagon or delivery wagon or the driver of any wagon containing commodities for sale or delivery and, if necessary, require him to proceed to some place which the sealer may specify for the purpose of making the proper tests.

Violators prosecuted.

SEC. 30. Any sealer having knowledge of a violation of any of the provisions of this act, or of any law relating to weights and measures shall cause the violator to be prosecuted.

Marking weights and measures tested, etc. "Out of order." Removal of tags prohibited.

SEC. 31. Whenever a sealer compares weights and measures or weighing or measuring instruments and finds that they correspond, or causes them to correspond, to the standards in his possession, he shall seal or mark, under his name, such weight or measure or weighing or measuring instrument with an appropriate device showing that the weight or measure or weighing or measuring instrument is correct and the date of the inspection, which device shall be placed so as to be easily seen. He shall condemn and seize and may destroy incorrect weights and

measures and weighing and measuring instruments which in his best judgment are not susceptible of repair, but any weight, measure or weighing or measuring instrument which shall be found to be incorrect, but which in his best judgment are susceptible of repair, he shall cause to be marked with a tag or other suitable device with the words "Out of Order." The owners or users of any weights or measures or weighing or measuring instruments which have been marked "Out of Order," as in this section provided, may have the same repaired or corrected within thirty days, but until the same have been repaired or corrected and tested as herein provided the owners or users thereof may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sealer. When the same have been repaired or corrected the owner or user thereof shall notify the sealer and the sealer shall again test and prove the weight, measure, or weighing or measuring instrument, which had been found incorrect and marked as in this section provided, and until such weight, measure, or measuring or weighing instrument has been reinspected by the sealer and found correct, the same shall not be used or in any way disposed of by the owner. Any person who removes or obliterates any tag or device placed upon any weight, measure, or weighing or measuring instrument by the sealer as in this act provided, shall be guilty of a misdemeanor. When any weight, measure or weighing or measuring instrument has been repaired and corrected, as in this act provided, and has been reinspected and found correct by the sealer of weights and measures, as in this act provided, the sealer of weights and measures shall remove the tag or device with the words "Out of Order," and shall seal and mark such weight, measure, or weighing or measuring instrument in the manner provided for the marking of the same where upon inspection they are found correct.

Penalty for possessing or using false weights or measures.

SEC. 32. Any person who, by himself, or his employee or agent, or as the employee or agent of another, shall use, in the buying or selling of any commodity, or retain in his possession a false weight or measure or weighing or measuring instrument, or shall offer or expose for sale, or sell except as heretofore specifically allowed in section twenty-seven of this act, or use or retain in his possession any weight or measure or weighing or measuring instrument in any county, city, town, or city and county in which there has been appointed a sealer of weights and measures in accordance with the provisions of this act, which has not been sealed by a sealer within one year,

or who shall dispose of any condemned weight or measure, or weighing or measuring instrument contrary to law, or any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer or expose for sale or use or have in his possession for the purpose of selling or using any device or instrument to be used to or calculated to falsify any weight or measure, and any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer or expose for sale any commodity, produce, article or thing in a less quantity than the true net weight, or true net measure thereof, or in a less quantity than he represents it to be or contain, shall be guilty of a misdemeanor. Possession of such false weights or measures or weighing or measuring instruments shall be prima facie evidence of the fact that they were intended to be used in the violation of law. [*1915 Amendment.*]

Power of peace officers.

SEC. 33. The state superintendent, his deputy, all sealers and their deputies, in the performance of their official duties, shall have the same powers as are possessed by peace officers of this state.

Hindering sealers.

SEC. 34. Any person who shall hinder or obstruct in any way the state superintendent, or his deputy, or a sealer or his deputy, in the performance of their official duties, shall be guilty of a misdemeanor.

Refusing to exhibit weights or measures.

SEC. 35. Any person neglecting or refusing to exhibit any weight, measure, or weighing or measuring instrument of any kind, or appliances and accessories connected with any or all of such instruments or measures which is in his possession or under his control, to the state superintendent, or his deputy, or to a sealer or his deputy, for the purpose of allowing the same to be inspected and examined as in this act provided, shall be guilty of a misdemeanor.

Refusing to exhibit commodities.

SEC. 36. Any person, who by himself, or his employee or agent, or as a proprietor or manager, shall refuse to exhibit any article, commodity, produce or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the state superintendent, or to his deputy, or to a sealer or his deputy, for the purpose of allowing the same to be tested and proved as to the quan-

tity contained therein as in this act provided, shall be guilty of a misdemeanor.

Penalty, for false sealing.

SEC. 37. Any sealer who shall seal any weight, measure, balance or apparatus before first testing and making the same conform with the standards of the state, or who shall condemn any weight, measure, balance or apparatus without first testing the same, shall be deemed guilty of a misdemeanor.

Guilty of misdemeanor.

SEC. 38. Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

"Person."

SEC. 39. The word "person," as used in this act, shall be deemed to include person, firm or corporation.

Duty of officers of corporations.

SEC. 40. It shall be the duty of all officers, directors and managers of corporations, whose respective corporations use or keep for use, sell or offer for sale, any weights, measures, or weighing or measuring instruments which are subject to inspection by the provisions of this act, to comply with the provisions of this act on behalf of their respective corporations; and it shall be the duty of all officers, directors and managers of corporations, whose respective corporations offer for sale or keep for sale any commodity, produce, article or thing which is subject to inspection by the provisions of this act, to comply therewith on behalf of their respective corporations. In case any corporation shall violate any of the provisions of this act, the corporation and the officers thereof directly concerned with the act or acts constituting such violation shall be severally guilty of a misdemeanor.

Sealing when done by state superintendent.

SEC. 41. Any sealing or testing of any weight, measure, weighing or measuring instrument by the state superintendent or his deputy shall have the same force and effect as a sealing or testing by a sealer or his deputy.

Appropriation.

SEC. 42. There is hereby appropriated out of the general fund of the state the sum of twelve thousand dollars for carrying into effect the provisions of this act.

Title of act.

SEC. 43. This act shall be known as the Weights and Measures Act.

NET CONTAINER ACT

An act to provide for the indicating of the net quantity of foodstuffs and stuffs intended to be used or prepared for use as food for human beings when sold or offered or exposed for sale in containers and providing penalties for the violation thereof.

[Approved May 27, 1913; *Statutes* 1913, chap. 167, p. 247. Amendments approved June 7, 1915; *Statutes* 1915, chap. 639, p. 1263.]

Title of act.

SECTION 1. This act shall be known as the Net Container Act.

Purpose of act.

SEC. 2. This act is designed to protect purchasers of any commodity within its provisions against deception as to the quantity or amount of the commodity purchased, and as against the seller shall be strictly construed with a view to effect its object.

Applicable to foodstuffs.

SEC. 3. The provisions of this act apply to foodstuffs and stuffs intended to be used or prepared for use as food or medicine for human beings and shall apply to any commodity intended to be so used or consumed by human beings. [*1915 Amendment.*]

Net quantity plainly marked.

SEC. 4. Whenever any of the commodities within the provisions of this act are sold, or offered or exposed for sale, in containers, the net quantity of the contents of the container shall be plainly and conspicuously marked, branded, or otherwise indicated on the outside or top thereof or on a label or tag attached thereto.

Designation of quantity.

SEC. 5. The designation of the quantity of the commodity required by section four of this act shall be in terms of weight, measure or numerical count, subject however to the following provisions:

(*a*) The quantity of the contents so marked shall be the amount of food or stuff in the package.

(*b*) If the designation is by weight it shall be in terms of avoirdupois pounds and ounces; if designation is by liquid measure, it shall be in terms of the United States

gallon of 231 cubic inches and its customary subdivisions, *i. e.*, in gallons, quarts, pints, or fluid ounces; if designation is by dry measure, it shall be in terms of the United States standard bushel, and its customary subdivisions, *i. e.*, in bushels, half bushels, pecks, quarts, pints or half pints; *provided*, that, by like method, such designations may be in terms of the metric system of weight or measure.

(*c*) The quantity of solids shall be designated in terms of weight, and of liquids, in terms of measure, except in case of an article in respect to which there exists a definite trade custom, otherwise, the designation may be in terms of weight and measure in accordance with such custom.

(*d*) The quantity of the contents shall be designated in terms of weight or measure, unless the container be marked by numerical count and such numerical count gives accurate information as to the quantity of the food in the package. When designation is by numerical count it shall be in English words or Arabic numerals.

(*e*) The quantity of the contents may be stated in terms of minimum weight, minimum measure or minimum count, but in such cases the designation must approximate the actual quantity and there shall be no tolerance below the stated minimum.

(*f*) The quantity of viscous or semi-solid foods, or of a mixture of solids and liquids, may be stated in terms of weight or measure, but the statement shall be definite and shall indicate whether the quantity is expressed in terms of weight or measure. [*1915 Amendment.*]

Act not applicable.

SEC. 6. The provisions of this act shall not apply—

(*a*) To any sale of a commodity within the provisions of this act when such sale is made from bulk and the quantity is weighed, measured or counted for the immediate purpose of such sale.

(*b*) To a sale of any container of an ornamental or symbolic character with which a quantity of some commodity is sold as merely incidental.

(*c*) To a sale of a commodity in any container of a net weight of 2 ounces or less, or of a commodity in any container of a measure of 2 fluid ounces or less, or of a commodity in any container of a numerical count of six or less.

(*d*) To the sale of medicine, when prescribed by a licensed physician, veterinarian, or dentist; or to medicinal or pharmaceutical preparations or mixtures of two or more medicinal substances. [*1915 Amendment.*]

Violation defined.

SEC. 7. It shall not be held to be a violation of the provisions of this act when a commodity in a container is sold, or offered or exposed for sale, and there is a discrepancy between the actual quantity of the commodity in said container and the net quantity of the contents thereof indicated on the container as herein prescribed, provided such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith.

No violation.

SEC. 8. It shall not be held to be a violation of the provisions of this act when a commodity in a container is sold, or offered or exposed for sale, and there is a discrepancy between the actual quantity of the commodity in said container and the net quantity of the contents thereof indicated on the container as herein prescribed; *provided*, that the seller purchased said commodity in said container, in good faith relying upon the said indication of the net contents thereof, and sold said commodity in said container without altering the contents thereof or the indication of the contents thereof; *and provided, further*, that the exemption of this section shall not apply to any sale unless the container had the name of a packer, manufacturer, wholesaler, or jobber thereon at the time the seller purchased it.

"Person."

SEC. 9. The term "person" used in this act shall include every person, firm, company, copartnership, society, association and corporation.

"Container."

SEC. 10. The term "container" used in this act is hereby defined to be any receptacle into which a commodity is packed or put for sale or to be offered or exposed for sale.

Penalty.

SEC. 11. Every person, who by himself or his agent, servant or employee violates or causes or permits to be violated any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

Federal requirements. State superintendent to enforce act.

SEC. 12. All acts and parts of acts inconsistent with or in conflict with any of the provisions of this act are hereby repealed.

(*a*) It shall not be held to be a violation of the provisions of this act to sell or offer for sale any commodity contained in a container which complies with the provisions and requirements of any act of congress or the opinions and regulations as issued by the secretary of agriculture and appertaining to net weight or measure.

(*b*) The enforcement of the provisions of this act shall be under the supervision of the State Superintendent of Weights and Measures. [*1915 Amendment.*]

WEIGHMASTER ACT

An act defining public weigh master; describing his duties; providing for rules and regulations governing the performance of his duties; prescribing a bond and fixing the amount thereof; and providing penalties for any violation of the provisions of this act.

[Approved June 8, 1915; *Statutes* 1915, chap. 653, p. 1288.]

Public weighmaster.

SECTION 1. All persons, firms, corporations, co-partners or individuals engaged in the business of public weighing for hire, or any person, firm or corporation, who shall weigh or measure any commodity, produce, or article, and issue therefor a weight certificate which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce or article, is based, shall be known as a public weigh master, and shall file a bond with the state superintendent of weights and measures in the sum of one thousand dollars ($1,000) for the faithful performance of his duties, and shall obtain from the state superintendent of weights and measures a seal for the stamping of weight certificates hereinafter provided for, which shall only be in such form as such superintendent may prescribe; *provided*, that nothing in this act shall apply to any scales, or to the owner or lessee thereof, which are situated wholly outside of any incorporated city or town, except where said scales are being used in the weighing of any commodity which has been or is being purchased by the owner or lessee of said scales to an amount in excess of one hundred dollars per annum; and except also any scales, or the owner or lessee thereof, which are being used in the weighing of any commodity accepted for storage and for which a storage charge is made.

Seals.

(*a*) The said seals shall be the property of the state and shall be of a form and design prescribed by the said superintendent and furnished by him at the expense of the weigh master. Said seals shall be a recognized authority of accuracy when applied to weight certificates.

Weight certificates.

SEC. 2. The state superintendent shall prescribe a form of weight certificates to be used by all public weigh masters, which certificates shall be known as the "state certificate of weights and measures," and shall state

thereon the kind of product, the number of units of the same, the date of receipt of the product, the owner, agent or consignee, the total weight of the product, the vessel, railroad, team, or other means by which the product was received, any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the product from a like kind. No certificate other than the one herein prescribed shall be used by public weigh masters.

Records.

SEC. 3. All public weigh masters shall keep and preserve correct and accurate records of all public weighings, as provided by this act, which records shall at all times be open for inspection by the state superintendent of weights and measures, or his deputy.

SEC. 4. All state certificates of weights and measures, as provided by this act, shall contain the accurate and correct weight of any and all commodities weighed when issued by the public weigh master.

Penalty.

(*a*) Any public weigh master who shall issue a state certificate of weights and measures giving a false weight or measure of any article or commodity weighed or measured by him, or his representative, to any person, firm or corporation, shall be guilty of a misdemeanor, and the state superintendent may direct and compel the return to him of the state seal, or declare his bond as public weigh master forfeited, or both.

SEC. 5. Any person, firm, or corporation, who shall request the public weigh master, or any person employed by him, to weigh any product, commodity, or article, falsely or incorrectly, or who shall request a false or incorrect state certificate of weight and measure, shall be guilty of a misdemeanor.

Re-weighing in case of doubt.

SEC. 6. When doubt or differences arise as to the correctness of the net or gross weight of any amount or part of any commodity, product, or article, for which a state certificate of weight and measure has been issued by a public weigh master, the owner, agent, or consignee may, upon complaint to the state superintendent of weights and measures, have said amount or part of the amount of any commodity, product or article, re-weighed by the state superintendent of weights and measures, or a public weigh master designated by him, upon depositing a sufficient sum of money to defray the actual cost of

re-weighing, with the state superintendent of weights and measures. If on re-weighing, a difference in the original weight is discovered, as the result of fraud, carelessness, or faulty apparatus, the cost of re-weighing shall be borne by the public weigh master.

Lots piled separately.

SEC. 7. All amounts, lots, shipments or consignments of products, after having been weighed, shall be piled or stored separately, as near as can be, in order that said amounts, lots, shipments or consignments, may be distinguished from each of the other amounts, lots, shipments, or consignments of a like kind.

Appropriation.

SEC. 8. There is hereby appropriated out of the general fund of the state, three thousand dollars, for carrying into effect the provisions of this act.

SEC. 9. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

INDEX FOR WEIGHTS AND MEASURES ACT

	Section
Office of superintendent of weights and measures created	1
Term. Salary. Bond	2
Deputies. Salaries	3
Traveling and office expenses	4
Standards of weights and measures	5
Custodies of standards. Tolerances	6
Copies furnished cities, etc. Testing	8
Inspection of standards used by cities, etc. Expense of testing. Complete set of copies	9
Testing of weights and measures used by state institutions	10
Inspecting work of local sealers	11
Sealers who neglect duties. Hearing, etc. Not to sell weighing instruments	12
Conditions throughout state investigated. Annual report	13
Instructions to sealers	14
Record of acts done	15
Office of sealer of weights and measures created. Compensation and term. Deputies. Failure to appoint	16
Appointment of sealers. Compensation and term. In counties of second class and cities of first class	17
Jurisdiction of sealers	18
Sealers appointed heretofore not affected	19
Copies of standards for counties, etc.	20
Copies to be tested	21
Copies deemed correct	22
Duties of sealers	23
Dealers in weighing and measuring instruments to have same tested	24
Instruments must be tested before sale	25
Instruments which may be sold subject to inspection	26
Testing of devices which must be assembled before use	27
Testing upon request of resident. Test upon request of firm, etc., using. Not relieved from violation	28
Duties of sealers. Weight packages	29
Violators prosecuted	30
Marking weights and measures tested, etc. "Out of Order." Removal of tags prohibited	31
Penalty for possessing or using false weights or measures	32
Power of peace officers	33
Hindering sealers	34
Refusing to exhibit weights and measures	35

Section
Refusing to exhibit commodities ---------- 36
Penalty for false sealing ---------- 37
Guilty of misdemeanor ---------- 38
"Persons" ---------- 39
Duty of officers of corporations ---------- 40
Sealing when done by state superintendent ---------- 41
Appropriation ---------- 42
Title of act ---------- 43

INDEX FOR NET CONTAINER ACT

Title of act ---------- 1
Purpose of act ---------- 2
Applicable to foodstuffs ---------- 3
Net quantity plainly marked ---------- 4
Designation of quantity ---------- 5
Act not applicable ---------- 6
Violation defined ---------- 7
No violation ---------- 8
"Persons" ---------- 9
Container ---------- 10
Penalty ---------- 11
Federal requirements. State superintendent to enforce act ---------- 12

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